

A G R E E M E N T

Between

CITY OF MIAMI BEACH, FLORIDA

and the

**FIRE FIGHTERS OF MIAMI BEACH
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS**

LOCAL 1510

AFL-CIO-CLC

Period Covered

October 1, 2003 through September 30, 2006

TABLE OF CONTENTS

	<u>PAGE</u>
AGREEMENT	1
 ARTICLE 1	
RECOGNITION	2
 ARTICLE 2	
DEDUCTION OF UNION DUES	
Section 2.1 Check off	3
Section 2.2 Indemnification	3
 ARTICLE 3	
GRIEVANCE PROCEDURE	
Section 3.1 Definition of Grievance and Time Limit for Filing	4
Section 3.2 Definitions of Weekday	4
Section 3.3 Grievance Procedure	4
Section 3.4 Election of Remedies	5
Section 3.5 Binding Arbitration	5
Section 3.6 Authority of Arbitrator	6
Section 3.7 Expenses	6
Section 3.8 Processing Grievance	6
Section 3.9 Suspensions, Reductions in Pay or Class, or Removal	6
Section 3.10 Probationary Period	7
Section 3.11 Union Grievance Committee	7
Section 3.12 Waiver of Time Limitations	7
 ARTICLE 4	
NO STRIKE AND NO LOCKOUT	
Section 4.1 No Strike	8
Section 4.2 No Lockout	8
 ARTICLE 5	
MANAGEMENT RIGHTS	9
 ARTICLE 6	
GENERAL PROVISIONS	
Section 6.1 No Discrimination	10
Section 6.2 Union Activity	10
Section 6.3 Seniority List	10
Section 6.4 Relief at Fire	10
Section 6.5 Exchange of Time	10
Section 6.6 Protection of City Property and Equipment	10
Section 6.7 Uniforms	10
Section 6.8 Meetings between Parties	11
Section 6.9 Time Bank	11
Section 6.10 Line of Duty Injuries	11
Section 6.11 Change in Shifts	12

TABLE OF CONTENTS (Continued)

	<u>PAGE</u>
ARTICLE 6	GENERAL PROVISIONS, continued
Section 6.12	Fire and Rescue Off Duty Services..... 12
Section 6.13	Promotional Examinations & Appointments..... 12
Section 6.14	Light Duty Assignments 17
Section 6.15	Injury Service Connected 17
Section 6.16	Jury Duty 18
Section 6.17	Reduction in Work Force..... 19
Section 6.18	Infectious Disease Presumption..... 19
Section 6.19	Seniority Bid System 19
Section 6.20	Minimum Staffing..... 19
 ARTICLE 7	 WAGES AND FRINGE BENEFITS
Section 7.1	Wage Increases 20
Section 7.2	Fire Rescue Duties 20
Section 7.3	Fire Prevention Duties 22
Section 7.4	Support Services Duties..... 23
Section 7.5	Work Out of Classification 24
Section 7.6	Overtime 24
Section 7.7	Call-in Guarantee 24
Section 7.8	Holidays..... 24
Section 7.9	Vacation Benefits..... 25
Section 7.10	Negotiation Pay 26
Section 7.11	Sick and Vacation Leave Accrual, Maximum Payment on Termination..... 26
Section 7.12	Hours of Work 27
Section 7.13	Insurance..... 27
Section 7.14	Recertification..... 29
Section 7.15	Court Time..... 29
Section 7.16	On-Call 30
Section 7.17	Shift Training Coordinator 30
Section 7.18	Pension Pick-up 30
Section 7.19	Rescue Out of Class (ROC) 30
Section 7.20	Pension..... 30
Section 7.21	Buyback of Probationary Time..... 35
Section 7.22	Fire/Rescue Recreation Fund..... 35
Section 7.23	Voting Time..... 36
Section 7.24	Commission on Fire Accreditation International Pay Supplement..... 36
 ARTICLE 8	 JOINT OCCUPATIONAL SAFETY AND HEALTH
Section 8.1	Committee Make-up and Responsibilities 37
Section 8.2	Personal Equipment 38
Section 8.3	Ladder Testing 38
Section 8.4	Air Quality Evaluations 38
Section 8.5	SCBA Repair 38

ARTICLE 9	LEAVE OF ABSENCE	
Section 9.1	Educational Leave and Tuition Refund	39
Section 9.2	Bereavement	39
ARTICLE 10	TRANSFER OF SERVICES	
Section 10.1	Notice	40
Section 10.2	Discussions	40
ARTICLE 11	DRUG/ALCOHOL TESTING	
Section 11.1	Selection	41
Section 11.2	Screening	42
Section 11.3	Expedited Arbitration	43
Section 11.4	Rehabilitation.....	44
ARTICLE 12	SAVINGS.....	46
ARTICLE 13	WAIVER AND ENTIRE AGREEMENT.....	47
ARTICLE 14	TERM OF AGREEMENT.....	48
EXECUTION		49
ELECTION OF REMEDY FORM		50
ADDENDUM.....		51

AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2004 by and between the CITY OF MIAMI BEACH, FLORIDA (herein called the "City"), and the FIREFIGHTERS OF MIAMI BEACH INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 1510, AFL-CIO-CLC (herein called the "Union").

SCOPE

It is the intention of this Agreement to provide for salaries, fringe benefits, and other terms and conditions of employment. It is further the intention of this Agreement to prevent interruption of work and interference with the efficient operation of the City and to provide for an orderly, prompt and just manner in handling grievances.

Within the context of this Agreement, the use of masculine-gender terms shall be considered gender-neutral and are freely interchangeable with the corresponding female-gender terms.

ARTICLE 1

RECOGNITION

The City recognizes the Union as the sole and exclusive bargaining representative for the purpose of negotiations over wages, hours, and other terms and conditions of employment for the following classifications in the Fire Department:

Fire Fighter I
Fire Fighter II,
Fire Lieutenant,
Fire Captain, and
all probationary employees serving in these classifications.

All other employees in other present classifications, including Fire Chief, Assistant Chief, Division Chief, and any other classifications established by the City, are excluded.

ARTICLE 2

DEDUCTION OF UNION DUES

2.1. Checkoff. Upon receipt of a lawfully executed written authorization from an employee, which is presented to the City by an official designated by the Union in writing, the City agrees during the term of this Agreement to deduct the uniform biweekly Union dues of such employees from their pay and remit such deductions to the Union Treasurer, together with a list of the employees for whom deductions were made; provided, however, that such authorization is revocable at the employee's will upon thirty (30) days written notice to the City and the Union. The Union will notify the City in writing of the exact amount of such uniform membership dues to be deducted. The Union will notify the City in writing thirty (30) days prior to any change in its dues structure. In January of each year of this Agreement, the Union will remit to the City \$400.00 as an administrative fee for the collection of dues by the City.

2.2. Indemnification. The Union agrees to indemnify and hold the City harmless against any and all claims, suits, orders, or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this Article.

ARTICLE 3

GRIEVANCE PROCEDURE

3.1. Definition of Grievance and Time Limit for Filing. A grievance is a dispute involving the interpretation or application of the express terms of this Agreement, excluding matters not covered by this Agreement; or where Personnel Board rules and regulations are involved; provided that disciplinary actions, including discharges, may be grieved under this Article, as provided herein. See Section 3.4 (Election of Remedies) for procedures to be utilized in particular circumstances.

3.2. Definitions of Weekday. The term "weekday", as used herein shall be defined as any day, Monday through Friday, excluding holidays, recognized by the City.

3.3. Grievance Procedure. Grievances shall be processed as follows:

Step 1: Any employee who believes he/she has a grievance shall present it in writing, on the Grievance Form provided by the City, to his/her Division Chief, or other person designated for that purpose, who shall give his/her answer within six (6) weekdays after such presentation. The employee will also provide the Union with a copy of said grievance. If the City form is not available through the Division Chief's office, the time limit for filing shall be waived until such time as the form is provided to the grieving party.

Step 2: If the grievance is not settled in Step 1 and the Union Grievance Committee desires to appeal, it shall be referred in writing by the Union to the Fire Chief within six (6) weekdays after the City's answer in Step 1. The Election of Remedy Form shall be completed and signed by the IAFF and/or the grievant, and attached to the Step 2 grievance. The Fire Chief, or his/her representative, shall discuss the grievance within six (6) weekdays with the Union Grievance Committee at the time designated by the City. If no settlement is reached, the Fire Chief, or his/her representative, shall give the City's written answer to the Union Grievance Committee within six (6) weekdays following their meeting.

Step 3: If the grievance is not settled in Step 2 and the Union Grievance Committee desires to appeal, it shall appeal in writing to the City Manager or his/her designee within six (6) weekdays after the City's answer in Step 2. A meeting between the City Manager, or his/her representative, and the Union Grievance Committee shall be held within six (6) weekdays. The City Manager, or his/her representative, shall give the City's written answer to the Union Grievance Committee within ten (10) weekdays following the meeting.

Any untimely filing of a grievance at any step will be considered withdrawn. Upon mutual agreement of the parties, grievances may be consolidated or grouped, and may also be commenced at Step 3 of the procedure.

Section 3.4. Election of Remedies. Disciplinary actions may be grieved (1) under the grievance/arbitration provisions contained in this Article or (2) as set forth in Article 3.9 to a Hearing Examiner, who shall be selected by utilizing the procedures outlined in Section 3.5 of this Article. A grievance involving the interpretation or application of this Agreement may be grieved solely under the grievance/arbitration provisions contained in this Article. Grievances regarding certain non-disciplinary matters, such as disagreements as to the waiving or application of changes to personnel rules or other work rules or policies may be filed by the bargaining agent via the Personnel Board procedures.

The decision of the Hearing Examiner shall be final and binding. The cost of a Hearing Examiner shall be borne by the City. Any proceedings before the Hearing Examiner shall be conducted pursuant to the attached Hearing Examiner Rules.

3.5. Binding Arbitration. If the grievance involves a difference of opinion with respect to the interpretation or application of the express terms of this Agreement and said grievance has not been settled in accordance with the foregoing procedure, the Union Grievance Committee may refer the grievance to binding arbitration within six (6) weekdays after receipt of the City's answer in Step 3.

The parties shall attempt to agree upon an arbitrator within six (6) weekdays after receipt of notice of referral and, in the event the parties are unable to agree upon an arbitrator within said six (6) weekday period, the parties shall immediately jointly request the Federal Mediation and Conciliation Service to submit a panel of five (5) arbitrators. Both the City and the Union shall have the right to strike two (2) names from the panel. The party requesting arbitration shall strike the first two names; and the other party shall then strike two

names. The remaining person shall be the arbitrator. The arbitrator shall be notified of his/her selection within six (6) weekdays by a joint letter from the City and the Union requesting that he set a time and place for the hearing, subject to the availability of the City and Union representatives.

3.6. Authority of Arbitrator. The arbitrator shall have no right to amend, modify, ignore, add to, or subtract from the provisions of this Agreement. He shall consider and decide only the specific issue submitted to him in writing by the City and the Union, and shall have no authority to make a decision on any other issue not so submitted to him. The arbitrator shall submit in writing his/her decision within thirty (30) days following close of the hearing or the submission of briefs by the parties, whichever is later, provided that the parties may mutually agree in writing to extend such limitation. The decision shall be based solely upon his/her interpretation of the meaning or application of the express terms of this Agreement to the facts of the grievance presented. If the arbitrator acts in accordance with this section, the decision of the arbitrator shall be final and binding.

3.7. Expenses. All costs of arbitration, including the arbitrator's fees and expenses, shall be divided equally between the City and the Union provided, however, that each party shall be responsible for compensating its own representatives or witnesses. Either party desiring a copy of the transcript shall bear the cost of same.

3.8. Processing Grievance. All grievance discussions and investigations shall take place in a manner which does not interfere with the operation of the Fire Department. Any time spent by the Grievance Committee of the Union in discussions or processing grievances at Step 1, 2, or 3 during their working hours, shall not result in loss of earnings or benefits.

3.9. Suspensions, Reductions in Pay or Class, or Removal. Any dispute concerning an employee who has completed his/her probationary period, and who is suspended, reduced in pay, or classification, or removed, shall be processed through the Hearing Examiner procedure governing such appeals, or under this contractual grievance procedure upon the election of the employee within ten (10) days of the event giving rise to the dispute. An election of one procedure shall foreclose any resort to the other procedure. If the employee elects to utilize this contractual grievance procedure, it shall commence at Step 3.

3.10 Probationary Period. Nothing herein shall in any way affect the discretion presently accorded the Fire Chief with respect to employees in their probationary period following hire, or in their probationary period

following promotion. It is specifically understood by the parties that the exercise of the Fire Chief's discretion in this regard shall not in any way be subject to the grievance procedure set forth herein.

3.11 Union Grievance Committee. The Union shall appoint a Grievance Committee of not more than three (3) members, and shall notify in writing the Fire Chief and the City Manager of the name or names of the employee or employees serving on this committee, and of any changes in the members of the committee. The members of this committee may not conduct any investigation while on duty without receiving the permission of the Fire Chief; however, such permission shall not unreasonably be withheld.

3.12 Waiver of Time Limitations. The parties may mutually agree in writing to extend any of the time limitations set forth above for the processing of grievances.

ARTICLE 4

NO STRIKE AND NO LOCKOUT

4.1 No Strike. The parties hereby recognize the provisions of Chapter 447 of the Florida Statutes which define strikes, prohibit strikes, and establish penalties in the case of a strike and incorporate those statutory provisions herein by reference. The parties further agree that the City shall have the right to discharge or otherwise discipline any employee(s) who engage(s) in any activity defined in Section 447.203(6) of the Florida Statutes, at its discretion, provided that an employee may grieve and have arbitrated the question of whether or not he engaged in the prohibited conduct.

4.2. No Lockout. The City will not lock out any employees during the term of this Agreement as a result of a labor dispute with the Union.

ARTICLE 5

MANAGEMENT RIGHTS

It is recognized that, except as stated herein, the City shall retain whatever rights and authority are necessary for it to operate and direct the affairs of the City and the Fire Department in all of its various aspects, including, but not limited to, the right to direct the working forces; to plan, direct, and control all the operations and services of the Fire Department; to determine or change the methods, means, organization, and personnel by which such operations and services are to be conducted; to assign and transfer employees; to schedule or reschedule the working hours, to hire and promote; to demote, suspend, discipline or discharge for just cause, or relieve employees due to lack of work or for other legitimate reasons, subject to the Personnel Rules of the City; to make, change, and enforce reasonable rules and regulations; to change or eliminate existing methods, equipment or facilities; provided, however, that the exercise of any of the above rights shall not conflict with any of the express written provisions of this Agreement.

ARTICLE 6

GENERAL PROVISIONS

6.1. No Discrimination. In accordance with applicable federal, state, and local law, the City and the Union agree not to discriminate against any employee on the basis of any protected classification.

6.2. Union Activity. The City and the Union agree not to interfere with the right of employees to become or not become members of the Union, and further, that there shall be no discrimination or coercion against any employee because of Union membership or non-membership. It is understood that the Union specifically retains any rights it has arising out of Chapter 447, Florida Statutes, with regard to its representational activities.

6.3. Seniority List. The City shall, on March 1st of each year, prepare a seniority list by time in rank or grade of all employees covered by this Agreement and immediately thereafter post such list in each fire station. Such seniority list shall stand as posted unless an objection is reported to the Fire Chief within forty (40) calendar days after posting.

6.4. Relief at Fire. In the event of a fire or fires, or other emergencies requiring employees to work longer than their regular tour of duty, the officer in charge shall attempt to relieve these employees by the oncoming tour as soon as feasible.

6.5. Exchange of Time. The Fire Chief, or designee may grant a request of any two (2) employees to exchange shifts if the City will not incur any overtime costs as a result thereof.

6.6. Protection of City Property and Equipment. It shall be the responsibility of any employee having custody of any equipment and property to see that it is properly cared for, kept clean, and returned to its place of storage. The City agrees to provide designated areas for the storage of bunker gear.

6.7. Uniforms. The City agrees to continue to provide uniforms at its expense for the employees covered by this Agreement. The present program concerning the providing of windbreaker jackets will be continued. All uniformed employees covered by this agreement shall receive \$50.00 per month for uniform cleaning and

maintenance. The City reserves the right, on January 1, 2006 or thereafter, to reopen this Agreement to discuss the implementation of a uniform and clothing cleaning service program to replace the current contractual provisions concerning uniform and clothing allowance.

6.8. Meetings between Parties. At the reasonable request of either party, the Union President, or his/her representative, and the City Manager, or his/her representative, shall meet at a mutually agreed-to time and place to discuss matters of mutual concern.

6.9. Time Bank. The IAFF and its designees or other members of the Executive board as determined by the President, shall have the right to conduct union business (under the conditions described in this Section), through the use of a time bank. For fiscal year 2003-2004, the time bank shall be 1500 hours, covering the period October 1, 2003 through September 30, 2004. For fiscal year 2004-2005, the time bank shall be 1500 hours, covering the period October 1, 2004 through September 30, 2005. For fiscal year 2005-2006, the time bank shall be 1500 hours, covering the period October 1, 2005 through September 30, 2006. Unused time bank hours from one contract year shall rollover to the next contract year, not to exceed a total maximum of 3000 hours per contract year. No more than two (2) employees per shift may be granted union time bank leave at any one time. The President of the IAFF shall provide a minimum of twenty-four (24) hours notice to the Fire Chief for any leave to be granted. Time for attendance at negotiations for a successor agreement is addressed in Article 7.10 of this Agreement. In addition, administrative time which has been provided in the past (as determined by the Fire Chief), to the President, other members of the Executive Board or other IAFF members, shall be provided for attendance at two mutually agreed upon conferences each year of this agreement and such events shall not be included in the 1500 hour time bank. All other union convention time other than these two conferences shall be part of the union time bank.

The Management of the Miami Beach Fire Department or the City Administration reserves the right to rescind the provisions of this Article in the event that it is found to be illegal. Canceling the Article shall not preclude further discussions of the President's release for Union business.

6.10. Line of Duty Injuries. The City agrees that the program for payment of medical and hospitalization expenses incurred as a result of injuries in the line of duty, which is currently in effect as set forth in Section 6.15 of this agreement shall be continued.

6.11. Change in Shifts. The City agrees to give employees covered by this Agreement notice prior to any change in shifts, such notice to be at least seven (7) days prior to the change unless circumstances do not permit.

6.12. Fire and Rescue Off Duty Services. It is recognized that members of the bargaining unit are offered the opportunity from time to time to perform services utilizing their expertise and training for the benefit of private persons or entities, or public organizations or entities other than the City of Miami Beach. In such cases, the rate for the performance of these off-duty jobs shall be at a uniform hourly rate established by the Fire Chief in consultation with the President of the Union. The parties recognize and agree that the performance of these off-duty jobs or details do not constitute employment by the City of Miami Beach and that payment for these services will be made by, and is the responsibility of, the other employer. Performance of this work shall be on a voluntary basis and there shall be lists of persons who wish to volunteer established on a basis which is mutually agreeable to the Chief and the President of the Union.

6.13. Promotional Examinations and Appointments.

- A. Promotional examinations for the position of Fire Captain, Fire Lieutenant and Fire Fighter II will be given at least once every two (2) years in such fashion as to provide continuously active promotional lists. In the event that a promotional examination is delayed, the eligible candidates for that examination shall be those candidates who would have been eligible had the examination been administered in proper sequence. The promotional list developed from a delayed promotional examination shall be retroactive to the date of the expiration of the previous promotional list and shall expire two (2) years from the retroactive effective date. In the absence of an active promotional list, if there is a budgeted promotional vacancy that the City intends to fill and the City determines that the promotional list will not be available for up to one hundred fifty (150) days, the City will temporarily fill the budgeted vacancy through temporary assignments. Personnel used to fill budgeted vacancies through temporary appointments shall be selected from the expired promotional list, shall be assigned for a period not to exceed ninety (90) days, and shall receive all appropriate wages and benefits afforded the position for the duration of their temporary assignment. Except in cases of exigent circumstances, where it is clear that through no fault of its own the City fails to provide a promotional examination and list following the one hundred fifty (150) day period, any promotional appointments to vacancies created during the period when no eligibility list existed shall be retroactive back to the one hundred fifty first (151st) day from the date the previous list

expired and the City shall provide retroactive compensation and seniority to those individuals who are so appointed.

- B.** A preliminary list of authoritative sources from which technical knowledge for the behavioral assessment component and the written test questions will be drawn; may be established on a permanent basis. These preliminary sources will be compiled by a Book Committee consisting of the Human Resources Director, the Fire Chief, the Union President and the test developer or their designees. These committee members will be responsible for the authoritative sources for Firefighter II, Fire Lieutenant and Fire Captain. At least ninety (90) days prior to the scheduled date of the promotional examination, a final notice will be posted containing a list of authoritative sources from which the technical knowledge, for the behavioral assessment component and the written test questions will be drawn. Any revisions to the established permanent booklist may be requested by the Human Resources Director, the Fire Chief, the Union President and the test developer or their designees, but such request must be made no less than 120 days prior to the scheduled date of the promotional examination. The Human Resources Director, the Fire Chief, the Union President and the test developer or their designees will convene as a committee to make the necessary changes to the authoritative sources. However, a final notice must be posted at least ninety (90) days prior to the scheduled date of the promotional examination. The technical knowledge for the behavioral assessment component shall be based on written standard operating procedures (SOP)/standard operating guidelines (SOG) and/or agreed upon authoritative sources.
- C.** Candidates meeting the time in grade service requirements on or before the date of the first assembled test component is scheduled (as set forth in Section (A) above) for administration or any other agreed upon date (signed by the Union President and the Human Resources Director) are eligible to apply to take the promotional examination for their next higher rank.
- D.** There shall be at least two (2) post-test review/scoring sessions conducted on separate days and occurring within forty-eight (48) hours of the administration of the written examination. Each examinee will be able to review a copy of his own answer sheet and the scoring key (for use only during the review session) containing the correct response, the name of the reading source and the location from which each test question was drawn. Challenges will be written and submitted to the test developer during the post-test review sessions. The test developer shall conclusively decide all challenges.

Upon completion of the determination of a score for the behavioral assessment component of the examination, each examinee shall be furnished with their result. Each examinee may review his behavioral assessment component of the examination at a post-test review session for a time period of twice the duration of the behavioral assessment component of the examination. Challenges regarding the behavioral assessment component must be made in writing and submitted to the test developer either during the post-test review session, or at an optional challenge session scheduled within ninety-six (96) hours of the post-test review session. There will be no review of the behavioral assessment component during the optional challenge session. However, an applicant can review their individual behavioral assessment component during the post-test review and submit challenges during the optional session. Applicants may not take any written notes or test materials from the post test review. The test developer shall conclusively decide all challenges. For each examinee who submitted a challenge, each examinee's own challenge and response will be available no later than eight (8) weeks after the date of the last examinee's submission of challenges.

- E. For written promotional examinations for Firefighter II, Lieutenant, and Captain, the raw passing score will be seventy percent (70%) after all challenges have been resolved by the test developer. Assessment components will be used for promotions to Lieutenant and Captain, but not for Firefighter II promotions. After consultation with the Union President, the City will select an independent, qualified service provider to furnish and administer validated behavioral assessment components that are mutually agreeable to the parties. The City will offer behavioral assessment component preparation, orientation, and overview to all qualified applicants. The written examination given for Lieutenant and Captain will constitute fifty percent (50%) and the behavioral assessment components will constitute fifty percent (50%) of the examinee's combined score. Seniority and education points in accordance with the following specifications will then be added to the combined score after the candidate has successfully passed all components for the promotional examination.

PROMOTIONAL CREDIT

Promotional credit shall be limited to a maximum value of six (6) points, divided between two (2) components - seniority and education.

Seniority

Seniority shall be determined using the following formula:

$$(LS + TIG) \times 0.24 = S$$

LS shall be defined as length of service with the Miami Beach Fire Department. TIG shall be defined as time in grade (time as a Firefighter II, Lieutenant or Captain). S shall be defined as Seniority and shall be given a maximum value of 3.6 points.

Education

Education shall be determined using the following formula:

Technical training hours (TT x .000287) =	_____
College credit hours non-related (CCNR) x .01 =	_____ (max 1.2)
College credit hours related (CCR) x .02 =	_____ (max 1.2)
Associate degree in EMS or FS @ 1.2	_____ (max 1.2)
Associate degree in EMS or FS plus additional CCNR or CCR	_____ (max 2.4)
Bachelor degree in EMS or FS @ 2.4	_____ (max 2.4)

Technical training hours (TT) shall be documented hours spent training in job specific tasks and not counted as college credit hours. College credit hours non-related (CCNR) shall be credit hours documented by transcript or other acceptable evidence from an accredited college or university not related to the degree track for a degree in Fire Science (FS) or Emergency Medical Services (EMS) as designated from an accredited college or university. College credit hours related (CCR) shall be credit hours documented by transcript or other acceptable evidence from an accredited college or university in the degree track for that college or university's Fire Science (FS) or Emergency Medical Services (EMS) degree program. College credit hour values are based on semester hours and will be pro-rated for other systems (trimesters, quarters, etc.) Associate degree in Fire Science (FS) or Emergency Medical Services (EMS) shall be a degree received from an accredited college or university with supporting transcript or other acceptable evidence. Bachelor degree in Fire Science (FS) or Emergency Medical Services (EMS) shall be a degree received from an accredited college or university with supporting transcript or other acceptable evidence. Only one degree, either associates or bachelor, shall count toward educational credit, however, additional credit hours may be added to the associate degree up to the maximum allowed value, with related and non-related definition as set forth above.

In order to accurately reflect promotional points for all documents submitted, the City will assign mandatory individual appointments for each promotional applicant for document submission and review. The deadline for submission for all documents required will be the start of the candidates' individual appointment time. All applicants must be present during the entire document review process to confirm documents and answer questions. Applicants must submit the Promotional Credit Formula (above) for each document that they would like considered. Stapled to the back of each Promotional Credit Formula **must** be an *original or certified copy* of each document the candidate would like considered. Each attachment must indicate the number of technical training hours or college credits the course is worth. The applicant may verify hours by a) indication on a certified transcript, b) indication on the certified copy of the certificate or c) an official letter from the institution stating the hours. If the hours are not indicated in one of these ways, the certificate will not be included for any point calculation. All documents must also include the course title, and the date the course was completed.

Credit hours may not be counted twice. Therefore, classes that were counted towards a degree may not be used again as either technical or college credit hours.

A promotional list will then be created listing examinees in descending, numerical order of final score. The Fire Chief will appoint from this promotional list. Skip-overs may result from an examinee being rated unsatisfactory in two (2) or more evaluation elements within the last twelve (12) months; being issued three (3) or more written reprimands/suspensions within the last twenty-four (24) months; serving under a Last Chance Agreement; or being physically/mentally unqualified to perform the essential functions of the position.

Promotions shall be made by rank order provided that the ranking examinee's documented performance and/or discipline history are not significantly inferior to that of the next ranking candidate.

The IAFF shall facilitate participation of bargaining unit employees in providing information in order to conduct the job analyses and develop the tests within the time frames requested by the process; provided that such participation shall be on duty time.

The parties agree to review the formula for promotional credit and to implement such revisions as the parties may agree upon in writing.

Section 6.14. Light Duty Assignments. If an employee is temporarily unable to perform the essential functions of the employee's job classification due to a non-job related injury/illness, he may make a written request to the Fire Chief for a light duty assignment. The Chief shall determine if there are any necessary functions which could be performed by a light duty employee. If there are such opportunities, the Chief shall inform the employee in writing of any light duty assignments and the physical capabilities required for their performance.

The employee shall present this light duty assignment information to his/her treating physician and obtain, at his/her expense, a written evaluation of his/her capacity to perform the functions of the assignment. The medical evaluation must be in sufficient detail to satisfy the Chief. The Chief reserves the right to request a second opinion from a City-appointed physician. The establishment, duration, work hours, and content of light duty assignments are at the sole discretion of the Fire Chief and may be modified or ended at any time.

6.15. Injury Service Connected. For two (2) sixteen (16) week periods, the City agrees to compensate any member of the bargaining unit with the difference between the weekly disability Workers' Compensation benefit received or which the employee is entitled to receive, and his/her regular rate of pay for any time lost from work due to a service-connected injury. "Service-connected injuries" shall be defined as injuries sustained under the following circumstances:

- a) while on duty and entitled to be paid by the City; or
- b) while reasonably exercising Firefighter functions within the City limits of Miami Beach while off duty; or while working a departmentally sanctioned off-duty job; or
- c) while exercising Firefighter functions when there is a physical danger to a person and the employee takes reasonable action off duty in Miami Dade County, Monroe County, Broward County, or Palm Beach County, excluding any injury incurred while performing duties as a member of any other fire or emergency service; or
- d) when operating a City vehicle, being duly authorized to do so by the City; or while on a reasonably direct travel route to or from work and home in their private vehicle while within the City limits; or

- e) while participating in organized fire service training that is approved in writing by the Fire Chief after consultation with the Risk Management Office.

In the circumstances described above (sub-paragraphs a through e), the City agrees that it is and will consider itself the employer and the employee the City's employee.

After the advice and comments of the Fire Chief and the IAFF President, the City Manager, at his/her sole discretion, may extend the above-described I.S.C. payments beyond thirty-two (32) weeks. This decision is not subject to grievance or arbitration. The approvals for receipt of this compensation as presently required shall be continued.

6.16. Jury Duty. Bargaining unit personnel who are summoned to jury duty shall be covered by the following:

- a) Personnel who are released from jury duty and who are not required to return for jury duty the following day will be required to report to work and complete the remainder of their assigned tour of duty.
- b) Personnel who are required to return to a jury pool or to jury duty on the date following their scheduled shift will be allowed to take off the second half of their assigned shift (8:00 p.m. to 8:00 a.m.) without being charged to annual leave or sick leave time. If the employee is released from jury duty after 3:00 p.m., he/she is not required to return to his/her regularly scheduled shift.

6.17. Reduction in Work Force. For the term of this Agreement, there shall be no layoffs or demotions of bargaining unit members except for disciplinary demotions, suspensions, or terminations, which are not included for the purposes of no layoffs or demotions.

Section 6.18. Infectious Disease Presumption. Any condition or impairment of health caused by Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS), Hepatitis, Pulmonary Tuberculosis or Meningococcal Meningitis shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. The City will maintain a

confidential list of employees who have taken the required medical examinations. Employees will be added to the City's confidential list subject to the following conditions:

- a. Within three (3) months of the date this Agreement is ratified, current bargaining unit employees who have not already done so shall take a medical exam that tests for any evidence of HIV/AIDS Hepatitis, and Pulmonary Tuberculosis at a hospital or accredited testing laboratory chosen by the City, on their own time, and at the City's expense. Current employees shall be afforded the presumption of work related illness relative to the contraction of HIV/AIDS, Hepatitis and Pulmonary Tuberculosis or Meningococcal Meningitis.
- b. Effective October 1, 2001, New hires shall acquire the presumption entitlement after completing a pre-employment or post employment (post conditional offer of employment) medical exam that tests for and fails to reveal any evidence of AIDS, Hepatitis, Pulmonary Tuberculosis, or Meningococcal Meningitis.
- c. Employees who refuse to take the pre-employment or post-testing related to presumptions mentioned in this Section shall not be eligible for the presumptions.

Section 6.19. Seniority Bid System. It is understood by the parties that the current bid system in effect at the ratification of this agreement shall remain in effect. Any change to the bid system will be agreed upon through the Labor Management process.

Section 6.20. Minimum Staffing. It is agreed that the staffing of the Department shall be in accordance with the minimum staffing ordinance of the City which may be amended from time to time in the City's discretion, subject to the Union's right to request impact bargaining as provided under Article 13 of this agreement.

ARTICLE 7

WAGES AND FRINGE BENEFITS

7.1. Wage Increases.

- a. Effective with the first full payroll period that begins on or after October 5, 2003, there shall be an across-the-board wage increase of three percent (3%). In order to obtain any retroactive wage increase, bargaining unit members must be employed with the City on the ratification date of the 2003-2006 collective bargaining agreement.
- b. Effective with the first full payroll that begins on or after October 3, 2004, there shall be an across-the-board wage increase of three percent (3%).
- c. Effective with the first full payroll that begins on or before October 9, 2005, there shall be an across-the-board wage increase of three and one-half percent (3 1/2%).
- d. Merit and longevity increases shall become effective on the payroll period commencing nearest the effective date, provided that the employee's performance has been rated as satisfactory for the prior year.

7.2 Fire Rescue Division.

- a. Employees who hold an EMT certificate shall receive a one and one-half percent (1 ½) supplement calculated on their base pay.
- b. Employees who hold an EMT certificate and are assigned full time to the Fire Rescue Division, in addition to a. above, receive a supplement of five percent (5%) calculated on their base pay.
- c. Employees who hold an EMT certificate and have accumulated one year of assignment to the Fire Rescue Division shall, in addition to (a) and (b) above, receive a supplement of two and one half (2 ½%) calculated on their base pay.

- d. Employees who hold a Paramedic certificate shall receive a seven percent (7%) supplement calculated on their base pay. Effective September 30, 2005, the Paramedic Certification pay supplement will be 7.75%. Effective September 30, 2006, the Paramedic Certification pay supplement will be 8.50%.
- e. Employees who hold a Paramedic Certificate and are assigned full time to the Fire Rescue Division shall receive in addition to (d) above, a supplement of five percent (5%) calculated on their base pay, plus two and one-half percent (2-1/2%) calculated on base pay.
- f. Employees who hold a Paramedic Certificate and have accumulated one-year of assignment to the Fire Rescue shall receive, in addition to (d) and (e) above, a supplement of two and one-half percent (2 ½%) calculated on base pay for as long as they are assigned to Fire Rescue.
- g. An employee who is reassigned out of the Fire Rescue Division and is subsequently reassigned back to the Fire Rescue Division will receive the same amount of supplement as he/she was previously receiving.
- h. Employees shall not receive pay supplements for both EMT and Paramedic certifications.

Paramedic Training

For the purpose of this program, the focus will be on bargaining unit personnel who were hired on or after March 30, 1987. Seniority in rank will be the initial factor used to determine selection of students that will be allowed to apply to Miami-Dade Community College or other designated educational institution for acceptance into their paramedic program. The department will allow a minimum of six (6) bargaining unit personnel to enroll in the program each year. However, this number may be increased at the sole discretion of the Fire Chief, based upon staffing requirements, budget, class availability, etc. The Fire Chief will also determine the appropriate number of bargaining unit employees within each rank that will be considered for enrollment. The City will pay for the paramedic course, lab fees, required textbooks, and related medical exams and vaccinations.

Prior to the beginning of the school semester, bargaining unit personnel who have been accepted into the program will be transferred to a shift that allows them the opportunity to attend required classes on duty. This

attendance will be governed by policies developed by the Fire Chief, including but not limited to, dress code, travel time, schedules, etc. The Fire Department shall not be responsible for additional on-duty time or expenses for bargaining unit personnel who are required to repeat portions of the paramedic course for graduation.

Bargaining unit personnel eligible for participation in this program will be allowed to submit a written request for a one-time deferment upon notification by the Fire Chief that they are being processed for the next available class. Any requests for deferment must be directed to and received by the Fire Chief within fifteen (15) days from the date of notification to ensure that there will be an adequate number of students available for entry into this program.

An employee granted a deferment will not be considered eligible for participation for a period of one (1) year from the date of deferment, at which time he/she will be required to make application to Miami-Dade Community College or other designated educational institution for acceptance into the next available Paramedic Training Program.

While attending paramedic school, bargaining unit personnel will not be permanently assigned to any division that would require payment above base salary. For example, personnel will not be assigned permanently assigned to the Fire Rescue Division, Fire Prevention Division, or the Support Services Division. However, they may be assigned temporarily as the need arises.

7.3 Fire Prevention Duties.

- a. Employees who are assigned full time to the Fire Prevention Division shall receive supplement of five percent (5%) calculated on their regular base pay until relieved from the assignment.
- b. Employees shall receive an additional two and one-half percent (2 ½%) supplement upon receipt of a State Fire Inspector Certificate and shall continue to receive such supplement until the Certificate expires, regardless of his/her divisional assignments.
- c. An employees who has been assigned to the Fire Prevention Division for a year after receiving the State Fire Inspector Certificate shall receive an additional two and one-half percent (2 ½%) supplement, thus making the total supplement equal to five (5%) per cent.

- d. An employee who is assigned out of the Fire Prevention Division and is subsequently reassigned to the Fire Prevention Division will receive the same amount of supplement as he /she was previously receiving.
- e. Employees shall remain solely responsible for obtaining and maintaining a State Fire Inspector Certificate. Such costs involved in obtaining and/or maintaining a State Fire Inspector Certificate shall remain the responsibility of the employee.

7.4. Support Services Division.

- a. Employees who are assigned full time to the Support Services Division shall receive supplement of five percent (5%) calculated on their regular base pay until relieved from the assignment.
- b. Employees shall receive an additional two and one-half percent (2-1/2%) supplement upon receipt of a State Fire Instructor Certificate and shall continue to receive such supplement until the Certificate expires, regardless of his/her divisional assignment.
- c. An employee who has been assigned to the Support Services Division for a year after receiving the State Fire Instructor Certificate shall receive an additional two and one-half percent (2-1/2%) supplement, thus making the total supplement equal to five percent (5%), so long as he possesses a Support Services Certificate, and for as long as the assignment to Support Services continues.
- d. An employee who is assigned out of the Support Services Division and is subsequently reassigned to the Support Services Division will receive the same amount of supplement as he/she was previously receiving.
- e. One Certified Air Room Technician per 24-hour shift shall be assigned to the Support Services Division. However, in the event of a determination by the air packs' regulatory body that fire fighter air packs cannot be serviced by City personnel, then this operation would cease.
- f. Employees shall remain solely responsible for obtaining and maintaining a State Fire Instructor Certificate. Such costs involved in obtaining and/or maintaining a State Fire Instructor Certificate shall remain responsibility of the employee.

7.5. Work Out of Classification. When the City assigns a Fire Fighter I, Fire Fighter II, Lieutenant, or Captain to work in a higher position for more than one hour, he/she shall receive an increase of One Dollar (\$1.00) per hour for all hours during which the assignment continues on that shift.

7.6. Overtime. Any member of the bargaining unit required to perform work outside of his/her normal shift shall receive pay at time-and-one-half their current hourly rate. Hourly rates shall be determined using the definitions in Article 7.13, Hours of Work. Upon implementation of the new average pay period provision for 24-hour shift personnel, all vacation and sick leave accrual rates and existing accrued amounts for 24-hour shift personnel shall be revised to reflect this change (i.e. 1.5 hours for each hour).

The Fire Chief will make available to the International Association of Fire Fighters, Local 1510 (IAFF) a report or the database of the overtime worked by the bargaining unit members. Such information will be furnished to the IAFF on an as needed basis.

7.7 Call-in Guarantee. A member of the bargaining unit who is called in to work outside of his/her normal shift will be guaranteed four (4) hours of pay to be computed at the rate of time-and-one-half, except when contiguous to the employee's regular schedule. If a call-in occurs on a holiday, the member will receive holiday pay for the four (4) hour guarantee and all additional hours worked on the holiday. If an employee does not perform available work as assigned, he shall not be entitled to any pay.

7.8. Holidays. The following holidays shall be granted to all members of the bargaining unit accordingly:

<u>Holidays</u>	<u>Designated Date</u>
New Years Day	January 1
Martin Luther King, Jr. Day	3 rd Monday in January
President's Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	1 st Monday in September
Veterans Day	November 11 th
Thanksgiving Day	4 th Thursday in November
The Day after Thanksgiving	4 th Friday in November

Christmas

December 25

Employee's Birthday Anniversary*

Three (3) Floating Holidays**

* Birthday anniversary shall be twenty-four (24) hours for 24-hour shift employees and eight (8) or ten (10) hours for 8/10 hour shift employees.

** Three (3) floating holidays of ten (10) hours or eight (8) hours for 8/10 hour shift employees, and one (1) 36 - hour shift floating holiday for 24-hour shift employees.

- a. Floating holidays are to be selected by the employee, subject to the Fire Chief or designee's approval, during each 26 pay period year.
- b. Bargaining unit members shall be eligible to use Floating Holidays and Employee Birthday Anniversary holidays after six (6) months of continuous employment with the City.
- c. 8/10 hour shift employees get the same holidays as other City Employees.
- d. Bargaining unit members shall receive holiday pay (double time) for all hours worked on holidays.
- e. Any additional holidays so designated by official action of the City Commission shall be added to the above list.
- f. Effective October 1, 2003, for twenty-four (24) hour shift personnel only, an employee whose R day or regular day off falls on a holiday will have the option of an alternate holiday of twelve (12) hours at the employee's regular straight time rate of pay, to be used within twelve (12) months of the holiday, or receiving pay for eight (8) hours at the employee's regular straight time rate of pay. An employee choosing an alternate holiday must take such day at the Fire Chief's discretion. Employees must make their choice as to receiving an alternate holiday on January 1, April 1, July 1, and October 1, for the forthcoming quarter. Failure to timely make this choice shall be construed as an election of pay.

7.9. Vacation Benefits. Consistent with applicable ordinances, the vacation benefits presently enjoyed by the employees covered by this Agreement shall continue for the term of this Agreement.

7.10. Negotiation Pay. The Union's Negotiation Committee, said Committee shall be composed of not more than five (5) members of the bargaining unit selected by the Union. Four (4) committee members, not more than two (2) of whom are on the same tour of duty, shall be allowed time off with pay to participate in any negotiations conducted pursuant to Chapter 447 of the Florida Statutes on any day or days on which negotiations are held during their regularly scheduled tour of duty. Employees shall not be paid for time spent in negotiations on off-duty days. The Union shall notify in writing the Fire Chief and the City Manager of the names of the members of the Negotiations Committee and of any changes in the members of said Committee.

7.11. Sick and Vacation Leave Accrual and Maximum Payment on Termination. The present policy concerning sick leave (including the policy for payment upon termination, retirement, or death), accrued sick and vacation time combined, up to a maximum of one year's salary, shall continue for all employees hired before October 1, 1978.

Effective October 1, 1978, all new employees covered by this Agreement shall, under applicable ordinances, rules and regulations, be allowed no accumulation of vacation leave, except in accordance with provision for postponement of vacation leave as set forth in Article 7, Section 7.9, of this Agreement; be permitted to transfer sick leave in excess of 360 hours to vacation leave at the rate of two days sick leave to one day vacation leave to be used in the pay period year when transferred; be permitted a maximum payment at time of termination, death, or retirement of 360 hours vacation leave and one half of sick leave to a maximum of 360 hours. Effective October 1, 2004, the Must Use Cap on vacation accrual will be raised from 360 hours to 460 hours (and from 540 hours to 690 for 24-hour shift employees).

The amount paid upon retirement, termination, or death will not exceed 480 hours and effective October 1, 2004, will not exceed 580 vacation hours (720 hours for 24-hour shift employees and effective on October 1, 2004, 870 hours for 24-hour shift employees) for post 1978 bargaining unit members paid at one hundred percent (100%).

Employees shall be entitled to schedule and use at least one year's worth of their annual leave per year, if they participate in the Fire Department's vacation leave application process in a timely manner.

Value of accumulated sick leave hours upon termination, retirement, or death shall be at one hundred percent (100%) for 120 hours, (180 for 24-hour day-shift personnel) of the minimum balance and fifty percent (50%) for up to 240 hours (360 hours for 24-hour day shift personnel) of any remaining hours.

7.12. Hours of Work.

- a. The average pay period for twenty-four (24)-hour shift personnel covered by this agreement will be 96 hours in a 14 day period and the three (3) shift (A,B,C) schedule of twenty four (24) hours on duty and forty eight (48) hours off duty shall continue for the duration of this agreement. Every seventh shift, currently known as an R-day, shall be a day off so as to comply with the average pay period described above.
- b. The average pay period for 8/10 hour shift personnel covered by this agreement shall be eighty (80) hours in a fourteen (14) day period, with scheduled shifts consisting of eight (8) ten (10) hour or ten (10) eight (8) hour days per pay period. 8/10 hour shift personnel shall not be eligible to receive or accrue R-days.

7.13. Insurance.

For Fiscal Year 2003-04, The City will continue to fund the current contribution amount for health care, defined as medical and dental. Such contribution is currently:

Single:	\$318.07	(\$307.86 Medical + \$10.21 Dental)
Emp. +1:	\$775.03	(\$755.33 Medical + \$19.70 Dental)
Family	\$785.53	(\$755.33 Medical + \$30.20 Dental)

In future years, the City's contribution shall increase based on the Florida Fire Fighters Insurance Trust Fund's annual cost projections based on claims experience and administrative costs as determined by its qualified consultant and documents supporting the annual percent increase; however, the City's increase to the current contribution amount to the health trust shall not exceed the average of the straight line percentage** increase in premiums for the City's various medical plan options plus the equivalent dollar amount increase that the City may receive for it straight line percentage increase in the premiums for the City's dental plan options.

For example, the City's average of the straight line percentage increase in premiums for the City's various medical plan options increase is 8%.and the straight line percentage increase in premiums for the dental plans is 3%. The Trusts projected cost increase is 10%. The City will increase the monthly amount it pays during fiscal year 2004-05 from \$307.86 for single medical coverage to \$332.49 (8%) plus \$10.52 for single dental coverage, for a total single contribution of \$343.01. If the Trust were to calculate an amount lesser than the City's increase, for example a 5% increase, and the City's increase is 8%, the City will contribute the lesser amount of increase, which would be 5%.

Conversely, if the City's renewal rate is flat, or a negative percent, then the City's contribution to the health trust for that particular fiscal year will be based on the average percent increase of the Fire Health Trust in their previous three years based on the Florida Fire Fighters Insurance Trust Fund's annual consultant's cost calculations based on claims experience, and administrative costs.

The City's contribution amounts will help fund the level of benefits provided under the current plan as of the date this contract is signed.* If plan design changes cause an increase in the Trust fund premium, the City is not required to increase its contribution as a result of the plan design change.

Financial disclosure reports are to be presented to the City Manager no later than July 1st of each year. Such report must include the increase percent identified by the Trust's plan consultant for the following City fiscal year. The City understands that it will provide the projected renewal information to the Trust, by July 1st of each year, and that the final renewal rates will be submitted when they are available, and prior to October 1st of each year.

The City will be notified of the annual meeting at which benefit changes are under consideration and the City shall be allowed to send a representative to that meeting. Also, any consulting reports analyzing benefit changes will be provided to the City for the purposes of that meeting.

*Upon ratification of this agreement, the parties shall supply each other with the current plan designs in effect for year 03-04.

**The straight line average is defined as the total of the percentage increase in premium for each of the City's medical plan options divided by the number of the City's medical plan options and in the same manner for dental plans.

- a. All members of the bargaining unit who have worked at least ninety (90) days from date of appointment will not be covered by City-provided medical and dental benefits and will instead be covered by the Florida Firefighters Insurance Trust Fund (Firefighters Plan). Covered employees if they choose, will have the options of coverage as set forth in that Plan. Non-bargaining unit State certified firefighter employees in the Fire Department have the option of coverage under the City-provided plan or Firefighters Plan, but not both.
- b. All members of the bargaining unit who were members of the Union on September 1, 1986, and who retire on or after October 1, 1986, and non-bargaining unit employees who opt for the Firefighters Plan and who retire on or after October 1, 1986, shall be covered by the Firefighters Plan to the extent they choose to have medical benefits provided to them and their dependents during retirement.
- c. The City shall be provided with a copy of the Firefighters Plan booklet and the Trust Agreement, and any other information required by law and shall be apprised of any changes in the Trust Agreement and/or Plan benefits.
- d. Employees covered by this Agreement who retire, resign, or are terminated by the City must be vested in the Police/Fire pension plan at the time of such retirement, resignation or termination in order to receive a contribution by the City towards his/her health insurance premium after such retirement, resignation or retirement.
- e. Employees in the bargaining unit shall be eligible to participate in the City's voluntary benefits plan, which may be modified by the City from time to time. The voluntary benefits plan shall be administered by the City.

7.14. Recertification. Time spent while off duty in classroom (including the test) or lab settings to obtain recertification in accordance with State of Florida requirements is not time worked and will not be compensated by the City. Books and tuition for such courses will be paid for by the City. Under present state recertification procedures, the City will pay a \$300 paramedic recertification bonus. Non-paramedic

employees who are required to obtain EMT recertification shall be provided with the state required instruction while on duty.

7.15. Court Time. When an employee is required to appear in court or at a deposition by the State Attorney, public defender, or a federal agency, or is required to appear in court or at a deposition in a civil matter which involves the employee's employment with the City, (except that when the employee is a Plaintiff in any litigation against the City, when the litigation involves one employee who is suing another employee, and/or when the employee is a Plaintiff or Defendant in a lawsuit where the employee is not on the same side as the City, this Section shall not apply) he/she will be paid a minimum of four (4) hours at the overtime rate if the court appearance or deposition is not contiguous to the regular duty shift. If the court appearance or deposition is contiguous to the regular duty shift, the minimum guarantee shall be two (2) hours at the overtime rate.

7.16. On-Call. Employees who are placed in an on-call status as primary respondents for periods of one month at a time will be paid a \$100.00 bonus for each such month. This bonus will not be treated as a wage payment for any purpose save federal taxes and is not pensionable for purposes of retirement calculation.

7.17. Shift Training Coordinator. One employee on each operating shift will be given a \$300.00 annual bonus for holding and maintaining a State of Florida Fire Instructor certificate, and for performing as the shift training coordinator. This training certificate holder bonus is not pensionable for purposes of retirement calculation.

7.18. Pension Pick-Up. The City agrees subject to and in accordance with IRS code and regulation that pension contributions, although designated as employee contributions, will be paid by the employer in lieu of contributions by the employee.

7.19. Rescue Out of Class (ROC). When the City temporarily assigns an employee covered by this Agreement to work in Fire Rescue for more than one hour he/she shall receive an additional one dollar (\$1.00) per hour for all hours during which the temporary assignment continues.

7.20. Pension. The pension benefits as they currently exist shall continue, except that the City shall amend the pension plan to provide the following benefits for plan members who retire on or after October 1, 2001:

- A. Members with 20 or more years of creditable service who are eligible to receive normal or early retirement benefits under the System may purchase additional creditable service under the System for up to 2 years of full-time public safety service as a firefighter prior to City employment, provided the member is not entitled to receive a benefit for such service under another pension plan, and further provided that the member may not purchase a combined total of more than 4 years of creditable service for prior public safety service and prior military service. The cost for each year of creditable service for prior public safety service purchased shall be the same rate as provided in the plan for the purchase of military service, with the cost prorated for fractional years of service. For purposes of this purchase, an employee may use the value of accrued sick and/or annual leave, valued at the employee's hourly rate at the time of purchase.
- B. Members with 20 or more years of creditable service who are eligible to receive normal or early retirement benefits under the System may also purchase up to an additional six percent (6%) multiplier, in increments of three percent (3%), provided the combined total of additional years of creditable service purchased pursuant to paragraph (A), above, may not exceed 2 years if a member purchases an additional six percent (6%) multiplier, or 3 years if the member purchases an additional three percent (3%) multiplier. The cost for each additional three percent (3%) multiplier purchased shall be the same as the cost for each year of prior public safety service or military service. For purposes of this purchase, an employee may use the value of accrued sick and/or annual leave, valued at the employee's hourly rate at the time of purchase.

a. DEFERRED RETIREMENT OPTION PLAN (DROP)

1. **Eligibility** - Any active employee member of the Miami Beach Police and Firefighters Pension Plan may enter into the DROP on the first day of any month following the date upon which the employee first became eligible for a normal service retirement, subject to the conditions expressed herein or as modified from time to time.
2. **Conditions of Eligibility** - Upon becoming eligible to participate in the DROP, an employee may elect to enter that program for a period not to exceed 36 months. Notwithstanding, participation may not continue beyond the date when the employee's combined years of creditable service and time in the DROP equals 352

months (387 months for employees who were Plan members prior to July 1, 1976), except for those persons entering the DROP under the window period set forth in Paragraph 11 below. Provided also that participation in DROP shall require the employee to complete and submit the following prior to start of DROP payments.

- a. Such forms as may be required by the Pension Board of Trustee's Plan Administrator. Election in the DROP is irrevocable once DROP payments begin.
- b. A waiver and an irrevocable resignation from employment with the actual date of termination being the date designated by the employee as the end of his/her DROP participation. The administration and timing of execution and delivery of the waiver and resignation forms shall meet the requirements of the Age Discrimination in Employment Act and the Older Worker's Benefits Protection Act, as same may be amended from time to time.

- 3. **Conditions of Employment for DROP Participants** - Employees shall be subject to termination of employment while in DROP to the same extent as they were in their pre-DROP status. A person who has elected the DROP remains an employee during the DROP period and receives all the benefits of being an employee during the DROP period, except any form of pension contribution.

- 4. **Effect of DROP Participation**

- a. An employee's credited service and his/her accrued benefit under the Pension Plan shall be determined on the date of his/her election to participate in the DROP first becomes effective.
- b. The employee shall not accrue any additional credited service while he/she is a participant in the DROP, or after termination of participation in the DROP.

- c. A DROP participant is not eligible for disability benefits from the Plan.
 - d. An employee may participate in the DROP only once.
 - e. Effective with the start date of an employee's DROP participation, contributions to the Pension Plan by the employee and the normal cost contribution to the Pension Plan by the City, on behalf of the employee, shall cease.
- 5. **Payments to DROP Account** - A DROP account shall be created for each member who elects to participate in the DROP. A DROP account shall consist of amounts transferred to the DROP from the Plan, which include the monthly retirement benefits, including any future cost of living increases, that would have been payable had the member elected to cease employment and receive a normal retirement benefit upon commencing participation in the DROP, and earnings on those amounts.
- 6. **DROP Account Earnings**
 - a. Members may direct their DROP money to any of the investment options offered and approved by the Board. Any losses incurred by the participant shall not be made up by the City or the Pension Plan. The selection of these programs shall be made by the participant on forms provided by the Board. Any and all interest and or earnings shall be credited to the participant's DROP account.
 - b. A member's DROP account shall only be credited or debited with earnings while the member is a participant in the DROP and, depending on the DROP Account Payment Options selected, after the member dies, retires, or terminates employment with the City of Miami Beach.
- 7. **Payment of DROP Account Funds** - Upon termination of a member's employment (for any reason, whether by retirement, resignation, discharge, disability, or death), the retirement benefits payable to the member or to the member's beneficiary shall be paid to the member or

beneficiary and shall no longer be paid to the member's DROP account. No payments will be made from the DROP account until the member terminates employment.

8. **DROP Account Payment Options** - Following the termination of a participant's employment, the participant shall select one of the following options to begin to receive payment from his/her DROP account. Said selection shall occur no later than 30 days prior to the end of the DROP participation period or within 30 days following the termination of a participant's employment if said termination of employment occurs prior to the end of the DROP participation period:

- a. **Lump Sum** - All accrued DROP benefits, plus interest, shall be paid from the DROP in a single lump sum payment.
- b. **Partial Lump Sum** - A member designated portion of accrued DROP benefits, plus interest, shall be paid from the DROP in a partial lump sum payment with the remainder being directly rolled over into an eligible retirement plan.
- c. **Direct Rollover** - All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan.
- d. Other method(s) of payment that are in compliance with the Internal Revenue Code and adopted by the Pension Board of Trustees.

9. **Death of DROP Participant** - If a DROP member dies before his/her account balances are paid out in full, the participant member's designated beneficiary shall have the same rights as the member to elect and receive the pay-out options set forth in Paragraph 8, above. DROP payments to a beneficiary shall be in addition to any other retirement benefits payable to the beneficiary.

10. **Administration of DROP Accounts**

- a. The Pension Board of Trustees shall make such administrative rules as are necessary for the efficient operation of DROP, but shall neither create any rule that is

inconsistent with the legislation creating the Drop, nor any rule that would be a mandatory subject of collective bargaining.

b. At all times, the DROP will be administered so that the Plan remains qualified under the Internal Revenue Code and is in compliance with the Internal Revenue Code and applicable laws and regulations.

11. If any provision of this DROP should be found invalid, unlawful, or not enforceable by reason of any existing or subsequently enacted legislation, or by judicial authority, or by an IRS regulation/ruling, the City and the Union agree to meet within 30 days of such determination for the purpose of negotiating a resolution to the invalid provision(s).

In the event that provisions of the Internal Revenue Code operate to limit the benefit amount of employee coverage by the pension provision incorporated in this Agreement to an amount less than set forth in the pension Plan then the City and the Union shall negotiate a method to compensate the affected employee for the difference between the normal pension benefit and the limits allowed by the Internal Revenue Code provided that no such resolution shall jeopardize the exempt status of the Plan under the Internal Revenue Code.

C. DROP Re-opener. On or after January 1, 2006, the union reserves the right to re-open this article to discuss a change in the DROP period, for a period not to exceed ninety (90) days.

D. "Me Too" with the FOP. The IAFF reserves the right to a "me too" agreement with the FOP should the City modify the FOP agreement on parallel issues. Any such discussions shall not exceed a period of 90 days from the date of the first meeting, and in no event shall the discussions continue beyond the contract expiration date.

Section 7.21. Buyback of Probationary Time. Employees covered by this agreement may elect, by written notice served on the Board of Trustees, to receive creditable pension service time for any or all of their time served as probationary firefighters. In order to receive such creditable pension service time, employees should be allowed to purchase any or all of such time through the use of accrued annual leave, sick leave, cash or any combination thereof. In the event such purchase is not made within six months of successful completion of probationary period, the amount paid shall include interest at the rate of three percent (3%) per annum excluding first six months.

Section 7.22 . Fire/Rescue Recreation Fund. Unsolicited funds are received occasionally from citizens and citizen groups for Fire Department personnel. These monies are used for the purchase of recreational equipment and other similar activities.

Any disbursements of these funds will require two (2) signatures; the signature of the Fire Chief, and the signature of an employee who is either elected by his/her fellow employees or who is appointed by the Fire Union.

A posting will be made annually in each Fire Station showing the fund's balance, all disbursements, if any, as well as what items or services were purchased for which Fire Station or Division.

Any alleged improprieties of the fund will be reviewed by the Fire Chief and the Union President. If there are any problems or any negative public image projected by this fund or its disbursements, then the existing fund balance shall either be returned to the donor, or be disbursed to a *bona fide* charity of the Union's choice, and no new funds will be accepted.

Section 7.23. Voting Time. Given the availability of alternatives such as absentee ballots, the past practice of allowing paid time off for voting shall be discontinued.

Section 7.24. Commission on Fire Accreditation International Pay Supplement (CFAI). Bargaining unit members shall receive fifty dollars (\$50.00) per pay period. The union agrees to work with the City in order to attain accreditation through the Commission on Fire Accreditation International. After attainment of accreditation, (CFAI) payments required herein shall be contingent upon maintenance of the accreditation provided however that payment shall continue if loss of accreditation is due to action or inaction by the City/Administration and unrelated to actions of the bargaining unit members.

ARTICLE 8

JOINT OCCUPATIONAL SAFETY AND HEALTH COMMITTEE

8.1. Committee Make-up and Responsibilities. In recognition of the City's and the Union's desire to maintain the highest standards of health and safety in the Fire Rescue Department, a Joint Occupational Safety and Health Committee will be established. This committee shall consist of three (3) members of management selected by the Fire Chief, and three (3) members of the Union appointed by the Union President.

- a. The Committee shall recommend rules and procedures for the promotion of health and safety among Firefighters.
- b. The Committee shall make inspections of Fire Department facilities on a semi-annual basis or by special request.
- c. The Committee shall keep minutes of each meeting.
- d. The Committee shall meet on a regular basis at mutually agreed times. Four (4) members of the Committee shall constitute a quorum, providing that equal representation is available, at a scheduled and posted meeting.
- e. The Safety and Health Committee established by this Agreement shall evaluate changes in specifications for bids for protective clothing, equipment, tools, appliances, and apparatus, and shall issue its recommendations in a report to the Fire Chief.
- f. The Safety and Health Committee will evaluate the types of helmets, gloves, breathing apparatus, and protective clothing on a semi-annual basis. A report of this evaluation will be made to the Fire Chief.
- g. A separate City-Wide or Departmental Safety Committee will review and analyze all reports of accidents, deaths, injuries, and illnesses.

8.2. Personal Equipment. Personnel will be issued personal equipment one time, in new condition, to be maintained in serviceable condition. If the gear is damaged or destroyed at no fault of the employee, it will be replaced by the City. If it has been damaged, destroyed, or lost due to the employee's negligence, the employee will pay for the replacement.

Negligence will be determined by a majority vote of four (4) members of the Occupational Safety and Health Committee and the Fire Chief. Two (2) of the Committee members shall be Union appointees and two (2) shall be Management appointees.

8.3. Ladder Testing. The City shall pay for the inspection and testing of the structural integrity and safety of its aerial devices, using recognized test procedures by an independent test company other than the original manufacturer, at a time to be determined by management, but on no longer than a bi-annual basis. A copy of the test results will be supplied to the Safety and Health Committee.

8.4. Air Quality Evaluations. The City agrees that air quality evaluations as presently made will be made by the Dade County Health Department or other suitable testing facility on the compressed air utilized in departmental Self-Contained Breathing Apparatus (SCBA) and Self-Contained Underwater Breathing Apparatus (SCUBA) on a quarterly basis.

8.5. SCBA Repair. Only personnel who have been trained and certified by the manufacturer will be permitted to perform repairs or supervise the performance of repairs on Self-Contained Breathing Apparatus (SCBA).

ARTICLE 9

LEAVE OF ABSENCE

9.1. Educational Leave and Tuition Refund. Subject to applicable Personnel Rules, an employee may request an educational leave of absence without pay to take a course or courses in a field related to the work assignment of said employee. The City's tuition refund program shall be continued for the term of this Agreement.

9.2. Bereavement. Where there is a death in the immediate family (mother, father, grandparents, grandchildren, current spouse's parents, brother, sister, current spouse, children, or stepchildren) of an employee he shall be allowed two (2) days off (twenty-four (24) hours a 24-hour shift employee), for the purpose of making arrangements and/or attending the funeral, without loss of pay and without charge to accrued sick leave or vacation days of said employee. In such circumstances, additional time off may be granted by the Fire Chief or designee, and shall be chargeable to the accrued sick or vacation leave of such employee. Such additional time shall not count against the employee for the purposes of performance evaluation, or for participation in the sick leave sell back program. Requests for additional time off shall be submitted in writing to the Chief.

ARTICLE 10

TRANSFER OF SERVICES

10.1. Notice. The City agrees to keep the Union advised concerning any plans for, or implementation of, a transferal of any services presently being performed by bargaining unit members.

10.2. Discussions. The City agrees to hold discussions with representatives of the Union upon request of the Union, for the purpose of permitting the Union an opportunity to comment upon any proposed transferal of services and/or suggest alternatives to all or any portion of the plan for transferal.

ARTICLE 11

DRUG/ALCOHOL TESTING

Section 11.1. Selection. In an effort to identify and eliminate on-duty or off-duty controlled substance/alcohol abuse, urinalysis/breathalyzer tests shall be administered as provided herein. Employees shall be advised of their contractual rights relative to this Article any time a urinalysis/breathalyzer alcohol test is required. Employees refusing to submit to a urinalysis/breathalyzer test under the provisions set forth herein shall be dismissed.

- a. **Random Screening:** Effective October 1, 1998, all employees shall be required to submit to urinalysis once per calendar year. Employees shall be selected using a random selection process agreed to by the Union and the City, and shall be tested during their normal tour of duty.
- b. **Random Screening:** Effective October 1, 1998, all employees shall be required to submit to urinalysis once per calendar year. Employees shall be selected using a random selection process agreed to by the Union and the City, and shall be tested during their normal tour of duty.
- c. **Reasonable Belief Screening:** Employees may be tested under the following criteria:
 - 1. When a Division Chief or above has reasonable belief, based on objective factors that the employee has possession of, or is using, dispensing, or selling any illegal drug or controlled substance which is not prescribed by a licensed physician.
 - 2. When a Division Chief or above has reasonable belief based on objective factors that the employee is under the influence of alcohol on duty, or on an off-duty detail, or traveling to or from same in a City vehicle, or while in a status where injury would be covered by Workers' Compensation and/or I.S.C.

Section 11.2 Screening.

- a. Employees shall take a breathalyzer test in the case of suspected alcohol abuse, and/or give a urine sample for suspected substances abuse, as determined by the City, at either a hospital or an accredited testing lab, as chosen by the City. The hospital or accredited testing lab shall include sufficient safeguards to ensure that a proper chain of custody is enforced. When a sample is required to be submitted under any of the above circumstances, a portion of the first sample shall be retained, and the employee may choose to submit a second, separate sample as described in b) below. All positive tests for controlled substance(s) shall be confirmed by Gas Chromatography Mass Spectrometry (GCMS) or equivalent testing method. Testing shall be performed by an accredited, State licensed clinical lab.
- b. Except in the case of alcohol testing, if the employee chooses to submit a second, separate sample it shall be collected at either a hospital or accredited, State licensed clinical lab, chosen by the City, within four (4) hours of the time the initial sample is submitted. If the employee declines to submit a second, separate sample or is unable to submit a second, separate sample within the four (4) hour time period, the retained portion of the initial test shall be used for any additional confirming tests. Any additional confirmation testing shall only be conducted following a positive result from the initial test, and shall be performed at a second, separate State licensed clinical lab of the City's choice. All additional confirmation testing shall be by GCMS or equivalent testing method.
- c. For purposes of reasonable belief screening criteria under Section 11.1(b)(2), employees shall be deemed alcohol impaired if their blood/alcohol level is measured at .04 or above.

The following concentrations shall be applicable for determining whether samples are positive for the drugs or classes of drugs tested in the initial or additional confirmation process. A positive result shall be a concentration as set forth in NIDA (National Institute of Drug Abuse) five (5) panel screening standards.

- d. Employees shall be notified of a positive test result within a reasonable time from the time a sample is submitted. Such notice may be served either verbally to the employee or by a representative of the Department delivering notice to the employee's last recorded residence shown on the Department's

personnel roster. The Union shall be advised of positive or negative test results to the extent that the release of such information is consistent with Federal, State, or local laws regarding the privacy of test results, unless the employee does not want the results released to the Union.

- e. Employees ordered back to duty for testing shall be compensated under Article 7, Section 7.7, Call-In Guarantee.
- f. Disputes regarding the consistent application of the reasonable belief criteria cited herein shall be handled under Section 11.3, Expedited Arbitration. Employees shall comply with the order to submit a sample and simultaneously file a protest with the communicator of the order.
- g. Employees who test positive for drug use and wish to attribute causation to a prescribed drug may present evidence to the City Manager's designee and the laboratory's Medical Review Officer. The decision of the Medical Review Officer will be conclusive.
- h. Employees shall authorize release of drug/alcohol testing to the City.

Section 11.3. Expedited Arbitration.

- a. Following ratification of this Agreement and prior to October 1, 1998, the President of the Union and the Assistant City Manager for Labor Relations shall select two (2) permanent Arbitrators certified by the American Arbitration Association (AAA) or other similar certifying agency, to hear employee drug grievances. The Arbitrators will alternate, hearing only grievances where the employee alleges a violation of Section 11.1b), paragraphs 1 or 2, and limited to whether or not there was reasonable belief based on objective factors to require the grievant to submit to a controlled substance/blood alcohol test.
- b. Samples submitted under Reasonable Belief Screening criteria and grieved shall not be tested until the Arbitrator has ruled affirmatively that there was reasonable belief to test the employee.
- c. Any grievance must be in writing and submitted by fax or hard copy to the Division Chief or above on the same day as the test or no later than the next weekday following the test.

- d. Any costs associated with the Arbitrator's ruling shall be borne by the City if the Arbitrator rules there was not reasonable belief to test the employee, and the sample(s) shall be properly discarded. Costs associated with the Arbitrator's ruling shall be borne by the Union if the Arbitrator rules that there was reasonable belief to test the employee, and the sample(s) shall be tested as outlined in this Article.
- e. An expedited hearing shall be held before the Arbitration using the American Arbitration Association rules of expedited arbitration and no post hearing briefs shall be filed. The drug grievance shall be submitted directly to arbitration and shall be heard at a mutually convenient time after the employee was required to submit to the controlled substance/blood alcohol test. The Arbitrator shall rule at the close of the hearing and an oral response from the Arbitrator shall be sufficient to settle the grievance.
- f. The Arbitrator shall serve from year to year and shall be appointed by letter, jointly signed by the Union President and the Assistant City Manager for Labor Relations. Should the City and the Union choose to remove an Arbitrator, the Arbitrator shall be notified and the parties shall agree on a replacement. If they are unable to agree, each party shall put two (2) names into a hat and the name drawn shall be the replacement for one (1) year.

Section 11.4. Rehabilitation. In the event that the results of the urinalysis/blood alcohol test are positive, the following shall apply:

- a. At the discretion of the Fire Chief, the employee may be immediately relieved of duty however, he shall first be allowed to utilize all of his/her accrued annual and sick leave, if appropriate, and then shall be relieved without pay. The employee shall not be disciplined until a positive test result is communicated to the City. However, if the employee's conduct in connection with the alleged substance abuse amounts to conduct for which the City might otherwise discipline the employee, the City may take disciplinary action prior to knowing of a positive test result.
- b. The employee shall, at his/her own cost, within seventy-two (72) hours of a positive test notification (excluding weekends and holidays) enter into a substance abuse treatment program approved by the City and the Union and remain in the program until the employee has successfully completed the

program, including any required aftercare. If the employee fails to enter, participate in, and/or successfully complete any part of the rehabilitation program, including any aftercare, he shall be terminated from his/her employment with the City.

- c. Employees cleared to return to work by the Substance Abuse Program Administrator shall be subject to random urinalysis/breathalyzer test(s) for a period of two (2) years. The City shall be limited to six (6) random urinalysis breathalyzer tests per twelve (12) month period, beginning from the date the employee is cleared to return to work. Each employee shall be entitled to one (1) chance for rehabilitation during their employment with the City. Employees who test positive a second time under the provisions outlined in Section 11.2 of this Article or this Section shall be terminated from employment with the City.

ARTICLE 12

SAVINGS

If any provision of this Agreement is subsequently declared by the proper legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes or ordinances all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement. Upon issuance of such a decision or declaration which is not appealed by either party, the parties shall, following a request by either party, negotiate in good faith on a substitute article, section, or portion thereof.

ARTICLE 13

WAIVER AND ENTIRE AGREEMENT

The Union acknowledges that during negotiations resulting in this Agreement, it had the right and opportunity to make demands and proposals with respect to any and all subjects not removed by law from the area of collective bargaining and that the complete understanding and agreements arrived at by the parties after exercise of that right and opportunity are set forth in this Agreement.

Therefore, the Union waives the right, during the term of this Agreement, to bargain collectively with respect to any subject or matter referred to or covered by this Agreement, and it particularly waives the right to bargain over the City's exercise of any of its management's rights set forth in Article 5 of this Agreement, e.g., changing work hour schedule, transferring employees, laying off employees, etc.

The parties intend that this Agreement shall constitute the sole source of their rights and obligations from and to each other for its term either by specific provision or by silence. If the Agreement does not prevent it, the City may take any action (or fail to take any action) it desires and shall have no obligation to bargain with the Union concerning the taking, or not, of the action; but may take unilateral action at the time it desires. The Union does not waive, and shall retain its right, to bargain with the City over the impact of any action taken by the City not set forth in this Agreement, but such impact bargaining shall not serve to delay management's action until agreement or impasse is resolved concerning the impact at issue.

This Agreement may be amended by mutual agreement of the parties but any amendment must be in writing and signed by duly authorized representatives of the parties before it will be effective.

ARTICLE 14

TERM OF AGREEMENT

This Agreement shall be effective as of its ratification by both parties, and shall remain in force and effect until the 30th day of September, 2003~~36~~. It shall be automatically renewed from year to year thereafter, unless either party shall notify the other in writing at least sixty (60) days prior to the anniversary date that it desires to modify this Agreement. In the event that such notice is given, negotiations shall begin not later than thirty (30) days prior to the anniversary date. This Agreement shall remain in full force and effect during the period of negotiations, unless either party gives the other party at least ten (10) days written notice of its desire to terminate this Agreement, provided that such notice may not be given earlier than ten (10) days prior to the anniversary date.

EXECUTED by the parties hereto on the date first above written.

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS LOCAL 1510,
AFL-CIO-CLC

CITY OF MIAMI BEACH, FLORIDA

By _____
David Noel
IAFF President

By _____
Jorge M. Gonzalez
City Manager

Mayor
David Dermer

Approved by Vote of the City Commission
on the ____ day of _____, 2004.

ATTEST:

Robert Parcher, City Clerk

**INTERNATIONAL ASSOCIATION OF FIREFIGHTERS
(IAFF) LOCAL 1510**

ELECTION OF REMEDY FORM

Grievance No. _____

1. _____ I/We elect to utilize the Grievance Procedure contained in the current Contract between the City of Miami Beach, Florida, and the IAFF. In making this election, I/we understand that selection of another forum, as defined by the IAFF Contract, shall bar any consideration of the Grievance under the IAFF grievance and arbitration Article.
2. _____ I/We elect to utilize another forum for my/our grievance, and in doing so, I/we understand that this election shall bar any consideration of this matter under the IAFF grievance and arbitration Article.

Signature

Date

Subject of Grievance/Appeal: _____

HEARING EXAMINER RULES

SECTION 1: REQUEST FOR HEARING: Any officer or employee may appeal from such disciplinary action within ten (10) days after the delivery or mailing to him/her of such written notice, by filing a written request for a hearing to the Hearing Examiner or his/her designee. If the tenth day falls on a Saturday or Sunday, he/she will have the ability to file for an appeal on the following Monday.

SECTION 2: DISCIPLINARY HEARINGS:

- (a) The City Manager or his/her designee not later than ten (10) days after receipt of such appeal, shall fix a place and time for holding a public hearing within a reasonable time thereafter. Written notice of such time and place shall be delivered or mailed promptly to both the Appellant and the Appointing Officer.

Only the Hearing Examiner may grant a continuance to either party for good and sufficient cause. No continuance shall be granted to either party unless such request for continuance is received in writing by the City Manager or his designee at least ten (10) days prior to the date of said scheduled hearing of appeal.

- (b) The Hearing Examiner may, at the request of the Appointing Officer or the Appellant, call or request any person or records for the purpose of ascertaining the facts.
- (c) The Appointing Officer or a representative designated by him/her, shall have the right to be present at such hearing and to be represented by the City Attorney.
- (d) The Appellant shall have the right to be present at such hearing and to be represented by an attorney of his/her choice. Said attorney shall be an attorney duly admitted and licensed to practice in the State of Florida. In the event that the Appellant does not retain an attorney, said Appellant may have an advisor of his/her choice present. Such advisor shall not have the right to interrogate any witnesses or to enter objections to any testimony or evidence presented to the Hearing Examiner, nor may such advisor speak in the Appellant's behalf.
- (e) The findings of the Hearing Examiner shall be based upon competent substantial evidence of record.
- (f) The Appointing Officer shall have the burden of presenting evidence to support the truth of the charges as contained in the written notice.
- (g) The Appellant shall have the right to present evidence to refute the charges brought against him/her.
- (h) The Appellant shall have the right to be confronted by his/her accuser, and the Appellant and the Appointing Officer shall each have the right to cross-examine the witnesses of the other.

- (i) After both the Appointing Officer and the Appellant shall have presented their testimony and evidence, the Hearing Examiner shall receive argument in summation. The Appointing Officer shall have both the opening and closing argument.
- (j) After the completion of closing oral argument, the Hearing Examiner shall consider the testimony and evidence presented before the Hearing Examiner to determine the truth or untruth of the charges.
- (k) Within five (5) working days after the completion of the hearing, the Hearing Examiner shall issue his or her findings as to the truth or untruth of the charges in writing. The City Manager or his/her designee shall promptly deliver or mail a copy of such findings to the Appointing Officer and to the Appellant.
- (l) A copy of the written statement given the officer or employee, a copy of any reply thereto, and a copy of the findings of the Hearing Examiner shall be filed as a Public Record in the Human Resources Department.